

CAMBRIA

2016- 303

Updated 1/1/2011

IN THE COURT OF COMMON PLEAS OF CAMBRIA COUNTY, PENNSYLVANIA

PHILIP BARBERA, JR. AND
PHILIP BARBERA, SR.,
Plaintiffs

vs.

BRIAN INSCHO AND
KRISTEN LEAH INSCHO,
Defendants

: CIVIL ACTION - LAW

: No. 2016-303

: **Compliant In Civil Action**

: JURY TRIAL DEMANDED

: **Filed on behalf of Plaintiffs,**
: PHILIP BARBERA, JR. AND
: PHILIP BARBERA, SR.

: Counsel of Record for Plaintiffs:

: Gregory S. Olsavick, Esquire
: Forr, Stokan, Huff, Kormanski & Naugle
: 1701 Fifth Avenue
: Altoona, PA 16602
: (814) 946-4316

FILED FOR RECORD
16 JAN 22 AM 11:03
PROTHONOTARY
CAMBRIA COUNTY, PA.

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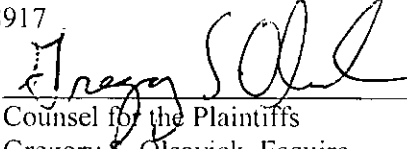
NOTICE

You have been sued in Court. If you wish to defend against the claims set forth in the following pages, you must take action within **TWENTY (20) DAYS** after this **COMPLAINT** and **NOTICE** are served, by entering a written appearance personally or by attorney and filing in writing with the Court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the **COMPLAINT** or for any other claim or relief requested by the Plaintiff. You may lose property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT REDUCE FEE OR NO FEE.

Laurel Legal Services, Inc.
225-227 Franklin Street
400 Franklin Center
Johnstown, PA 15901
(814) 536-8917


Counsel for the Plaintiffs
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COMPLAINT IN CIVIL ACTION

NOW, come the Plaintiffs, Philip Barbera, Jr. and Philip Barbera, Sr. by and through their Attorneys, Forr, Stokan, Huff, Kormanski & Naugle, and Gregory S. Olsavick, Esquire, and file the following Complaint in Civil Action, averring the following:

1.

Plaintiff, Philip Barbera, Jr., is an adult individual who presently resides at 135 Belmont Street, Johnstown, Cambria County, PA 15904.

2.

Plaintiff, Philip Barbera, Sr., is an adult individual who presently resides at 135 Belmont Street, Johnstown, Cambria County, PA 15904.

3.

Defendant, Kristen Leah Inscho, is an adult individual whose last known address was 132 Edge Avenue, Johnstown, Cambria County, PA 15909.

4.

Defendant, Brian Inscho is an adult individual whose last known address was 132 Edge Avenue, Johnstown, Cambria County, PA 15909.

5.

The events hereinafter complained of occurred on or about February 4, 2014, at approximately 4:30 p.m., in or about the municipality known as the City of Johnstown, Cambria County, Pennsylvania.

6.

There exists in said municipality a certain public thoroughfare known as Clinton Street, located in downtown Johnstown.

7.

The said Clinton Street in downtown Johnstown intersects with another public thoroughfare known as Locust Street.

8.

At all times material hereto, Plaintiff, Philip Barbera, Jr., was operating his 1998 Ford F-150, with Florida registration ABF-NO1.

9.

At all times material hereto, Plaintiff, Philip Barbera, Sr., was a passenger in this vehicle. They were traveling on Clinton Street in the vicinity of the Coney Island Hot Dog Restaurant, and approaching the intersecting Locust Street, as well as Railroad Street.

10.

At all times material hereto, Defendant, Kristen Leah Inscho, was operating a Mazda Tribute SUV, owned by Defendant, Brian Inscho, and traveling also vehicle on Clinton Street.

11.

At all times material hereto, the said Defendant, Kristen Leah Inscho was operating the said vehicle with the express consent and permission of Defendant, Brian Inscho.

12.

At all times material hereto, Defendant, Kristen Leah Inscho was operating the said Mazda Tribute on Clinton Street, and was proceeding behind the vehicle operated by Plaintiff, Philip Barbera, Jr.'s vehicle.

13.

At all times material herein, Plaintiffs were carefully and lawfully proceeding on the said Clinton Street, and Philip Barbera, Jr. brought his vehicle to a full and complete stop as a consequence of a traffic control light.

14.

At all times material herein, as Plaintiffs remained lawfully stopped on Clinton Street, Defendant, Kristen Leah Inscho, failed to bring the Inscho vehicle to a stop, causing the vehicle to violently crash and collide with the rear of the vehicle in which Plaintiffs were occupants.

15.

As a direct and proximate result of the aforesaid negligent, careless and reckless actions of Defendant, Kristen Leah Inscho, which will hereinafter more fully be set forth, a violent and severe collision occurred between the Inscho vehicle and the rear-end of the vehicle which was

then and there being operated by Plaintiff, Philip Barbera, Jr.

16.

As a result of the hereinabove described collision, Plaintiffs, Philip Barbera, Jr. and Philip Barbera, Sr., were caused to be thrown about and against various interior parts of the vehicle, and they were further caused to suffer and sustain the serious, severe and permanent injuries which will be hereinafter more fully set forth at length.

17.

The injuries and damages sustained by Plaintiffs, Philip Barbera, Jr. and Philip Barbera, Sr., were caused by and were the direct and proximate result of the negligence, carelessness and recklessness of Defendant, Kristen Leah Inscho, generally and in the following particulars:

- a. In being inattentive;
- b. In failing to keep a sharp lookout of the road and the conditions of traffic;
- c. In failing to keep and maintain a proper and accurate lookout for traffic proceeding directly in front of her on Clinton Street;
- d. In operating her vehicle at an excessive rate of speed such that she was unable to bring her vehicle to a stop prior to colliding with the rear of Plaintiff, Philip Barbera, Jr.'s vehicle;
- e. In continuing to operate her vehicle toward that of Plaintiffs when she saw or in the exercise of reasonable diligence should have seen the vehicle which the Plaintiff, Philip Barbera, Jr. was operating was completely stopped;
- f. Being inattentive to traffic conditions, and in particular to the presence of the stopped vehicle which Plaintiff, Philip Barbera, Jr. was operating;

- g. In failing to take proper notice of the Plaintiff's vehicle which had stopped for a period of time for a traffic control signal;
- h. In operating her vehicle in an inattentive, dangerous and careless manner under the circumstances;
- i. In causing her vehicle to violently strike and collide with the rear of the vehicle which Plaintiff, Philip Barbera, Jr. was operating;
- j. In operating her vehicle when she knew or should have known that the brakes on the vehicle were inoperable, and/or not fully functioning;
- k. In failing to keep and maintain her vehicle under proper and adequate control at all times material hereto, such that she would have been able to avoid a collision with the Plaintiff's vehicle;
- l. In failing to signal and/or warn the Plaintiff vehicle of the impending collision;
- m. In permitting or allowing her vehicle to strike and collide with the rear of Plaintiff's vehicle, notwithstanding the traffic control signal ahead requiring her to stop;
- n. In failing to operate the brakes of her vehicle in such a manner that the vehicle could be stopped in advance of colliding with the rear of the Plaintiff's vehicle;
- o. In failing to slow, stop, turn or otherwise take action in order to avoid striking the rear of Plaintiff's vehicle;
- p. In causing and allowing herself to be distracted while operating her vehicle, and/or taking her eyes off the roadway, thereby failing to see and observe that the Plaintiff vehicle was stopped on Clinton Street directly in front of her;
- q. In operating her vehicle in a dangerous and reckless manner under the circumstances;

- r. In failing to have her vehicle under proper control;
- s. Such other acts of negligence, carelessness or recklessness as may be revealed during the course of discovery in this matter or at the time of trial.

COUNT I

PLAINTIFF, PHILIP BARBERA, JR. v. DEFENDANT, KRISTEN LEAH INSCHO

18.

Plaintiff, Philip Barbera, Jr., hereby incorporates by reference the allegations set forth in paragraphs 1 through 17, inclusive, as if the same were set forth at length herein.

19.

As a direct and proximate result of Defendant, Kristine Leah Inscho's negligence, carelessness and recklessness in the operation of Defendant, Brian Inscho's vehicle, as aforesaid, Plaintiff, Philip Barbera, Jr., was caused to suffer and sustain the following severe and serious personal injuries, some or all of which may be permanent in nature:

- a. Concussion;
- b. Post-concussive syndrome;
- c. Various cognitive injuries and deficits;
- d. Severe headaches;
- e. Short-term memory loss, and inability to concentrate;
- f. Sleep disturbance;
- g. Depression and stress;
- h. Cervical sprain/strain;
- i. Injury and damage to cervical region, including head, neck, and shoulders;

- j. Radiation of cervical pain and discomfort into arms and hands;
- k. Injuries and damages to the muscles, tissues, ligaments, tendons, joints, bones, and soft tissue structures of the cervical region and neck;
- l. Injuries and damages to the muscles, tissues, ligaments, tendons, joints, bones, and soft tissue structures of the thoracic and lumbar regions;

20.

As a direct and proximate result of the aforementioned incident, Plaintiff, Philip Barbera, Jr. has been damaged as follows:

- a. He has been and will be required to expend large sums of monies for medical treatment, hospitalizations, medical supplies, surgical appliances, medicines and services of nurses;
- b. He has suffered and will continue to suffer from great physical and mental pain, inconvenience, embarrassment, mental anguish, distress, humiliation, and loss of enjoyment of life's pleasures;
- c. His general health, strength and vitality have been impaired;
- d. He has been and will be deprived of earnings, and income;
- e. His earning and income producing power has been reduced and permanently impaired;

WHEREFORE, Plaintiff, Philip Barbera, Jr., claims that damages from the Defendant, Kristen Leah Inscho, for an amount in excess of the \$25,000 arbitration limits of Cambria County, together with all associated interest, costs and such other relief as this Honorable Court, may deem appropriate.

COUNT II

PLAINTIFF, PHILIP BARBERA, SR. v. DEFENDANT, KRISTEN LEAH INSCHO

21.

Plaintiff incorporates by reference the allegations set forth in paragraphs 1 through 20 inclusive as if the same were set forth at length herein.

22.

As a direct and proximate result of Defendant, Kristine Leah Inscho's negligence, carelessness and recklessness in the operation of Defendant, Brian Inscho's vehicle, as further described herein, Plaintiff, Philip Barbera, Sr., as a passenger, was caused to suffer and sustain the following severe and serious personal injuries, some or all of which may be permanent in nature:

- a. Cervical sprain/strain;
- b. Cervical sprain/strain radiating into shoulders, and left arm/hand;
- c. Lumbar strain/sprain;
- d. Sleep disturbance;
- e. Injury and damage to cervical region and neck;
- f. Injuries and damages to the muscles, tissues, ligaments, tendons, joints, bones, and soft tissue structures of the cervical region and neck;
- g. Injury and damage to the muscles, tissues, ligaments, tendons, joints, bones and soft tissue structures of the lumbar region;

23.

As a direct and proximate result of the aforementioned incident, Plaintiff, Philip Barbera, Sr. has been damaged as follows:

- a. He has been and will be required to expend large sums of monies for medical treatment, hospitalizations, medical supplies, surgical appliances, medicines and services of nurses;
- b. He has suffered and will continue to suffer from great physical and mental pain, inconvenience, embarrassment, mental anguish, distress, humiliation, and loss of enjoyment of life's pleasures;
- c. His general health, strength and vitality have been impaired;
- d. He has been and will be deprived of earnings, and income;
- e. His earning and income producing power has been reduced and permanently impaired;

WHEREFORE, Plaintiff, Philip Barbera, Sr., claims that damages from the Defendant, Kristen Leah Inscho, for an amount in excess of the \$25,000 arbitration limits of Cambria County, together with all associated interest, costs and such other relief as this Honorable Court, may deem appropriate.

COUNT III

PLAINTIFFS vs. DEFENDANT, BRIAN INSCHO.

24.

Plaintiffs incorporates by reference the allegations set forth in paragraphs 1 through 23 inclusive as if the same were set forth at length herein.

25.

At all times material hereto, Defendant, Brian Inscho, was the owner of the said Mazda Tribute SUV, which was being then and there operated by Defendant, Kristen Leah Inscho.

26.

At all times material hereto, Defendant, Kristen Leah Inscho, was operating said vehicle with the direct and express consent, authority, and permission of Defendant, Brian Inscho.

27.

The injuries and damages sustained by Plaintiff, Philip Barbera, Jr. and Plaintiff, Philip Barbera, Sr., were caused by and were the direct and proximate result of the negligence and carelessness of Defendant, Brian Inscho, generally and in the following particulars:

- a. Entrusting his motor vehicle to an individual which he knew or should have known was incapable of operating said motor vehicle in a safe and lawful manner;
- b. Entrusting his motor vehicle to an individual when he knew or should have known that the brakes on the vehicle were inoperable and/or not fully functioning;
- c. Entrusting his motor vehicle to an individual who he knew or should have known was an incompetent and unsafe driver;
- d. Entrusting his motor vehicle to an individual he knew or should have known was likely to operate the motor vehicle in a manner that would create an unreasonable risk of harm to others;
- e. Entrusting his motor vehicle to an individual without undertaking adequate measures to ensure that the driver was capable of operating said motor vehicle in a safe and lawful manner;

- f. Such other acts of negligence, carelessness or recklessness as may be revealed during the course of discovery in this matter at the time of trial.

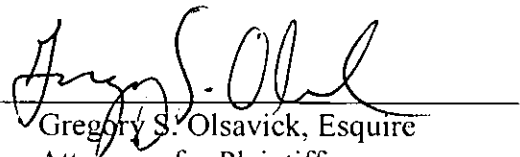
WHEREFORE, Plaintiffs, Philip Barbera, Jr. and Philip Barbera, Sr. claims damages from the Defendant, Brian Inscho, for an amount in excess of the \$25,000 arbitration limits of Cambria County, together with all associated interest, costs and such other relief as this Honorable Court may deem appropriate.

JURY TRIAL DEMANDED.

Respectfully submitted,

Forr, Stokan, Huff, Kormanski & Naugle

BY:

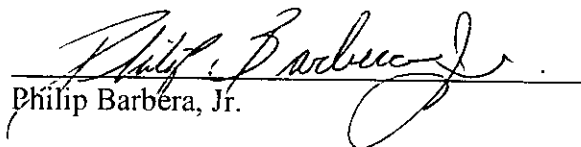


Gregory S. Olsavick, Esquire
Attorneys for Plaintiffs
PA I.D. #34620

1701 Fifth Avenue
Altoona, PA 16602
(814) 946-4316

VERIFICATION


The undersigned avers that the statements of fact set forth and contained in the foregoing **Complaint in Civil Action** are true and correct to the best of his knowledge, information and belief and are made subject to and in recognition of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.


Philip Barbera, Jr.

DATED: 1/15/16

VERIFICATION

The undersigned avers that the statements of fact set forth and contained in the foregoing **Complaint in Civil Action** are true and correct to the best of his knowledge, information and belief and are made subject to and in recognition of 18 Pa. C.S.A. § 4904 relating to unsworn falsification to authorities.


Philip Barbera, Sr.

DATED: 1/15/2016

FORR, STOKAN, HUFF, KORMANSKI & NAUGLE

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JOEL M. KORMANSKI (1962-2011)

Associates:

MARY ANN PROBST
GREGORY S. OLSAVICK
JONATHAN P. ROSE
DONALD J. BYRNES

January 19, 2016

Debbie Martella, Prothonotary
Court of Common Pleas of
Cambria County
200 South Center Street
Ebensburg, PA 15931

**In Re: Philip Barbera, Jr. and Philip Barbera, Sr.
v. Brian Inscho and Kristen Leah Inscho
Cambria County, No. _____**

Dear Ms. Martella:


Please find enclosed the Complaint in Civil Action to be filed on behalf of Philip Barbera, Jr. and Philip Barbera, Sr. A copy of the coversheet is enclosed to be time-stamped and returned in the self-addressed stamped envelope.

Also, enclosed is our check in the amount of \$95.50, representing the filing fee for the Complaint; and two copies of the Complaint, Sheriff's Instructions, and a check for the Sheriff in the amount of \$150.00, representing the advanced costs for service of the defendants. Kindly after docketing the Complaint, please forward the time-stamped copies of the Complaint to the Sheriff for service of the same.

Thank you for your courtesy and assistance with this matter.

Very truly yours,

Forr, Stokan, Huff, Kormanski & Naugle


Gregory S. Olsavick, Esquire
golsavick@sfshlaw.com

GSO:lg
Enclosures

